## TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE Transcriber's Office FLOOR DEBATE

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contract, the buyer and the seller or us? And I think it ought to be them. I think those are reasonable people. I'll tell you because the service provider has got to provide the services and the buyer has got to pay for it. You know what? We don't have to buy it. We don't have to pay for it. We don't have to work it into their family budget. We don't know what their needs are. Maybe they do need fertility coverage, maybe they don't need fertility coverage. I don't think it's up for us to decide. I think they're probably pretty good at figuring out themselves. And this precedent seems to say to me, no, no, no, no, no, don't worry, we're going to solve that problem for you. Now legitimately only with respect to three individual diseases, but it is the same principle. Small cost, I confess, but I think we're down...it is that slippery slope argument. Secondly, it seems to me that this argument can then be used in other areas besides fertility to attack the existing exclusions that you have. If you can find an analogy between a treatment that is covered in one circumstance and not covered in another, the Foley doctrine is going to apply and we're going to be able to make a case so we can reduce the exclusions because in one context a treatment is covered and in another context it isn't. And frankly, that's what the exclusions are. They are the list of the context in which we will cover things and we won't cover things, and I think that's for the marketplace to decide. confess I think the record shows that there is some gaming, there is some hassle factor. I would acknowledge that. And by the way, it goes on both sides. It goes on both sides. I mean even the proponents come down and tell the story of how their doctor beat the coding system with a little help. Well, that's the other side of this same thing; and it's why we've built an appeal process to handle these things without the Legislature weighting in. I think that's a legitimate way to go. I'm going to ask you to bracket this bill. If you don't, well, we'll go on to the bill. We'll take a look at the amendment. Senator Bourne has got some amendments. We'll look at advancing it yet today. It does seem to me that one way or the other this is not going to be over. Even if we bracket it today, it's not going to be over. I would suggest to everybody within the sound of my voice, including people in the lobby as well...

SENATOR CUDABACK: One minute.